

Docket No.: EVAN-0973
Application No.: 10/631,315
Amendment Date: January 5, 2006
Reply of Office Action of: October 18, 2006

REMARKS/ARGUMENTS

Claims 1-4, 6-20 and 60-62 are pending in the application. Claims 6, 17 and 62 are allowed. Claims 1, 3-4, 7-16, 18-20 and 60 are rejected, and claims 2 and 61 are objected to. Applicant requests reconsideration of this application in view of the following remarks and arguments.

Rejections Under Section 103

Examiner rejects claims 1, 3, 7-11 and 60 under 35 U.S.C. 103(a) as being unpatentable over Sears in view of Nakano et al. Applicant respectfully traverses this rejection.

Examiner avers that Sears discloses a controller 130, door 112, input drive 120 and clutch 122. However, Applicant respectfully points out that element 112 in Sears is a flexible curtain and not a fire door (paragraph 0013), as claimed in claim 1, and that element 134 in Sears is a door. Further, input drive 120 in Sears is for moving a spindle 142 and is not for moving a fire door, as claimed in claim 1.

Examiner avers that Sears does not teach a flex plate type of clutch. Applicant agrees and points out that Sears does not teach or suggest all of the limitations of claim 1 since he does not teach or suggest a flex plate type of clutch. Examiner, however, also avers that Nakano teaches the flex plate type of clutch and that it would have been obvious to provide Sears with such a clutch. Applicant respectfully disagrees. Applicant points out that Nakano discloses a ball bearing and electromagnetic clutch, but does not teach, disclose or suggest using the clutch with a fire door system, as claimed in claim 1 by Applicant. Examiner is reminded that to establish a prima facie case obviousness, a prior art reference (or references when combined) must *teach or suggest all of the claim limitations* (See MPEP 2143). Since Nakano does not teach or suggest the fire door system, he does not teach or suggest all the limitations of claim 1.

Docket No.: EVAN-0973
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Hence, Examiner must be arguing that the skill in the art makes it obvious to combine Sears and Nakano. However, Examiner is reminded that even if the prior art reference (or references when combined) teach or suggest all of the claim limitations, the level of skill in the art cannot be relied upon to provide the suggestion to combine references. A statement that modifications of the prior art to meet the claimed invention would have been "well within the ordinary skill in the art at the time the claimed invention was made", because the references relied upon teach that all aspects of the claimed invention were individually known in the art, is *not sufficient* to establish a prima facie case of obviousness *without some objective reason to combine the teachings of the references*. Ex parte Levengood, 28 USPQ2d 1300 (Bd. Pat. App. & Inter. 1993). See also In re Kotzab, 217 F.3d 1365, 1371, 55 USPQ2d 1313, 1318 (Fed. Cir. 2000). Examiner, as far as Applicant can tell, has not provided an objective reason as to why it would have been obvious to combine the teachings of Sears and Nakano and appears to be using Applicant's application to provide the motivation.

Regarding claim 60, a clutch failure sensor is operatively connected to the clutch and the controller. The controller is configured to establish a clutch failure alarm condition in response to the signal. Examiner argues that if the clutch fails, the door falls and inherently alerts the controller. Applicant respectfully disagrees with this statement. Applicant requests that Examiner provide more information as to why he thinks the controller is inherently alerted when the door falls. Thus far, Examiner has provided none.

Claims 3 and 7-11 are dependent claims depending from independent claim 1. If an independent claim is non-obvious under 35 U.S.C. 103, then any claim depending therefrom is non-obvious (See MPEP 2143.03). As discussed above, Applicant believes that independent claim 1 is non-obvious so that dependent claims 3 and 7-11 are also non-obvious.

Regarding claim 3, none of the references cited by Examiner teach, disclose or suggest an axle driveably connected to the input drive and rollably supporting at least a portion of the

Docket No.: EVAN-0973
Application No.: 10/631,315
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door, the axle rollably receiving and feeding out sections of the fire door.

Regarding claim 7, none of the references cited by Examiner teach, disclose or suggest a plurality of alarm states having a respective plurality of different sets of physical characteristics.

Regarding claim 8, none of the references cited by Examiner teach, disclose or suggest a hazardous environment sensor connected to the controller, wherein the hazardous environment sensor feeds a signal back to the controller when a hazard is detected in a space to which the fire door or gate system is pertinent and the controller places the system in a first of the plurality of alarm states having a first set of physical characteristics.

Regarding claim 9, none of the references cited by Examiner teach, disclose or suggest a clutch failure sensor connected to the clutch, wherein the clutch failure sensor feeds a signal back to the controller when the clutch fails and the controller places the system in a second of the plurality of alarm states having a second set of physical characteristics.

Regarding claim 10, none of the references cited by Examiner teach, disclose or suggest the controller and clutch being adapted to be connected to a primary power source, the system further comprising a primary power loss sensor connected to the controller, wherein the primary power loss sensor feeds back a signal to the controller when the primary power is lost and the controller places the system in a third of the plurality of alarm states having a third set of physical characteristics.

Regarding claim 11, none of the references cited by Examiner teach, disclose or suggest a secondary power source connected to the controller and to the clutch; a secondary power failure sensor connected to the controller; and wherein the secondary power failure sensor feeds a signal back to the controller when the secondary power fails and the controller places the system in a fourth of the plurality of alarm states having a fourth set of physical characteristics.

Docket No.: EVAN-0973
Application No.: 10/631,315
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With respect to claims 3 and 7-11, Applicant respectfully request that Examiner more particularly point out where the limitations in these claims are found in the prior art references. Applicant believes that Examiner cannot and, consequently, his Section 103 rejection of these claims should be withdrawn.

Claims 4, 12-16, 19 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sears et al. in view of Nakano and Crimmins. Applicant respectfully traverses this rejection.

Claims 4, 12-16, 19 and 20 are dependent claims depending from independent claim 1. If an independent claim is non-obvious under 35 U.S.C. 103, then any claim depending therefrom is non-obvious (See MPEP 2143.03). No combination of Sears, Nakano and Crimmins teaches or discloses the combination of the fire door system and clutch, as claimed in claim 1. Hence, claim 1 is non-obvious in view of Sears, Nakano and Crimmins, so that dependent claims 4, 12-16, 19 and 20 are also non-obvious.

Claims 2 and 61 are dependent claims depending from independent claim 1. As discussed above, Applicant believes that independent claim 1 is non-obvious and allowable over the cited references. Since claims 2 and 61 are dependent from non-obvious claim 1, they are also allowable. Notice to that effect is respectfully requested.

Regarding claim 2, none of the references cited by Examiner teach, disclose or suggest the fire door system of claim 1 further including an axle supporting the fire door and at least one gear connected to the input drive. The gear is rotatably connected to the axle yet fixable to the axle by the clutch.

Regarding claim 61, none of the references cited by Examiner teach, disclose or suggest the fire door system of claim 1, wherein the controller is configured to enter an alarm condition

Docket No.: EVAN-0973
Application No.: 10/631,315
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when loss of primary power is detected and disengage the clutch in pulses and thereby permit the door to fall in controlled increments until the door is completely closed.

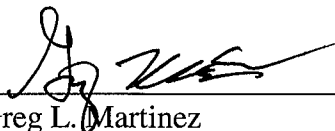
With respect to claims 2 and 61, Applicant respectfully request that Examiner more particularly point out where the limitations in these claims are found in the prior art references. Applicant believes that Examiner cannot and, consequently, his objection to these claims should be withdrawn.

CONCLUSION

Applicant respectfully requests reconsideration of this application. Applicant believes that claims 1-4, 6-20 and 60-62 are in condition for allowance and requests a timely Notice of Allowance. If any fees, including extension of time fees are due as a result of this response, please charge Deposit Account No. 19-0513. This authorization is intended to act as a constructive petition for an extension of time, should an extension of time be needed as a result of this response.

Respectfully submitted,

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